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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT

Docket Number (Optional)
1001.1658102

In re Application of: McAlister

Application No.: 09/801,186

Filed: March 8, 2001

For: RETRIEVAL DEVICE MADE OF PRECURSOR ALLOY CABLE

The owner*, BOSTON SCIENTIFIC SCIMED, INC., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term **prior patent** No. 6402761 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said **prior patent** is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the **prior patent** are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the **prior patent**, "as the term of said **prior patent** is presently shortened by any terminal disclaimer," in the event that said **prior patent** later:

expires for failure to pay a maintenance fee;
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is found invalid by a court of competent jurisdiction;
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is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

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2. ☑ The undersigned is an attorney or agent of record. Reg. No. 36,926

Signature — Dec. 16 2004 — Date

Glenn M. Seager
Typed or printed name

612-677-9050
Telephone Number

☑ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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